

# The Impact Of Mobilization On Student Reservists

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## Summary

The ongoing mobilization of reservists in support of Operations Enduring Freedom and Noble Eagle (OEF/ONE), has been the largest reserve call-up since the Persian Gulf War. Most of these reservists held civilian jobs prior to mobilization and, as such, are entitled to certain legal protections under the Uniformed Servicemembers Employment and Reemployment Rights Act (USERRA; 38 U.S.C. 4301-4333). However, a substantial number of reservists today are students at institutions of higher education, either on a full-time or part-time basis. Their academic status is not covered by USERRA, or any similar federal law (although it is covered under the laws of some states).

Some of these students have reported that their academic status has been harmed by mobilization and have advocated legal protections similar to those enjoyed by employees. This report provides information on the types of problems encountered by student reservists, the scope of those problems, the remedies available to student reservists who experience difficulties related to mobilization, and an assessment of the effectiveness of these remedies. It also provides several alternative options for assisting student reservists which Congress may wish to consider. This report will be updated as needed.

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## Background

The ongoing mobilization of reservists in support of Operations Enduring Freedom and Noble Eagle (OEF/ONE), has been the largest reserve call-up since the Persian Gulf War. As of September 17, 2002, about 93,000 reservists had been involuntarily called to active duty under federal authority.<sup>1</sup>

Most of these reservists held civilian jobs prior to mobilization and, as such, are entitled to certain legal protections under the Uniformed Servicemembers Employment and Reemployment Rights Act (USERRA).<sup>2</sup> For example, USERRA generally guarantees that mobilized reservists will be allowed to return to their civilian jobs, or similar jobs, after demobilization without adverse treatment. However, a substantial number of reservists today are students at institutions of higher education, either on a full-time or part-time basis. Their academic status is not covered by USERRA, or any similar federal law (although it is covered under the laws of some states).

Some of these students have reported that their academic status has been harmed by mobilization and have advocated legal protections similar to those enjoyed by employees. This report provides information on the types of problems encountered by student reservists, the scope of those problems, the remedies available to student reservists who experience difficulties related to mobilization, and an assessment of the effectiveness of these remedies. It also provides several alternative options for assisting student reservists that Congress may wish to consider.

## How Many Student Reservists Are There?

The Department of Defense (DOD) does not track the academic status of reservists, so a precise number is not available. However, DOD has made a rough estimate of the student population within the Selected Reserve<sup>3</sup> based on GI Bill utilization rates. According to Dr. John Winkler, Deputy Assistant Secretary of Defense for Reserve Affairs (Manpower and Personnel), “An estimated 30 percent of National Guard members and Reservists are students enrolled in institutions of higher learning.”<sup>4</sup> The methodology used to arrive at this number, however, probably overstates the number of reservists who are students at the time of mobilization.<sup>5</sup> An

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<sup>1</sup> This figure does not include those who volunteered for federal service in support of OEF/ONE, nor does it include those members of the National Guard called up for state active duty or for full time National Guard duty under Title 32 of the U.S. Code. For a summary of these distinctions, see CRS Report RL30802, *Reserve Component Personnel Issues*, by Lawrence Kapp.

<sup>2</sup> U.S.C. 4301-4333.

<sup>3</sup> The Selected Reserve, a sub-element of the Ready Reserve, contains those units and individuals most essential to wartime missions. Selected Reservists generally perform one weekend of training each month, for which they receive a monthly paycheck, and two weeks of training a year, for which they receive a separate paycheck. Another sub-element of the Ready Reserve is the Individual Ready Reserve, which is a manpower pool of pre-trained individuals who have already served in the Active Component or the Selected Reserve, but who are not required to train regularly as are those in the Selected Reserve. Although members of the Individual Ready Reserve have been mobilized during each call up since Desert Storm, the numbers have been low in comparison to the numbers of Selected Reservists activated.

<sup>4</sup> Dr. John Winkler, “Protecting Recalled Students,” *The Officer*, December, 2001, 38.

<sup>5</sup> The methodology used to arrive at this figure deserves discussion. According to the Office of the Assistant Secretary of Defense for Reserve Affairs (OASD/RA), there were 188,960 members of the Selected Reserve who drew benefits from the reserve version of the GI Bill at some point during fiscal year 2000. During that same fiscal year, the total membership of the Selected Reserve was 873,207. Thus, based on these two figures, OASD/RA calculated that 21.6% of Selected Reservists were drawing reserve GI Bill educational benefits. In addition, an indeterminate number of Selected Reservists were attending school using active duty GI Bill benefits or state military educational benefits, or

alternative methodology indicates that about 10-15% of reservists are students at any given point in time.<sup>6</sup> Additionally, a recent survey by the General Accounting Office of 1,608 reservists from selected high operational tempo units found that 22% of them were students on a full-time or part-time basis.<sup>7</sup>

## How Many Student Reservists Have Been Mobilized for Operations Enduring Freedom and Noble Eagle?

Another issue related to student reservists involves the degree to which they are affected by mobilization. While the proportion of students in the Selected Reserve may be 10, 15, 22 or 30%, as the previous paragraph indicates, that ratio may not correspond to the population of *mobilized* reservists. In fact, data from the Bosnia and Kosovo missions appear to indicate that student reservists were mobilized at a rate lower than their overall representation in the Selected Reserve. Specifically, of the reservists mobilized for Bosnia, only about 5.5% were receiving reserve or active GI Bill benefits within the three months prior to mobilization. Of the reservists mobilized for Kosovo, only about 3% were receiving reserve or active GI Bill benefits within the three months prior to mobilization. Again, these figures do not include those who were self-financing their education or those who were receiving state military educational benefits. However, the gap between these figures and the figures cited in the previous paragraph is considerable. This gap may be due, in part, to the self-selection<sup>8</sup> that often accompanies smaller-scale mobilizations like Bosnia and Kosovo, and to the heavy utilization in these operations of military units which typically have older and better educated populations.<sup>9</sup> Alternatively, the gap may be caused not by a decrease in the proportion of students in the mobilized population, but by a decrease in the population of students *using GI Bill benefits* in the mobilized population. This, too, could be caused by the utilization of units which have older populations who may have used up all of their GI Bill entitlements.

The reserve call-ups which occurred in the wake of the September 11, 2001, terrorist attacks were substantially larger than those of Bosnia and Kosovo, and so these factors may have been reduced or eliminated. However, it may still be the case that student reservists are underrepresented in the

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were self-financing their education. Thus, OASD/RA believes that a student population estimate of 30% is reasonable when these other factors are taken into consideration. It should be pointed out, however, that this estimate is fundamentally based on the number of students who drew reserve GI bill benefits *at some point* during an entire year. As some students drop out, graduate, or only enroll for one semester, this methodology has the practical effect of maximizing the population designated as “student.” A methodology which looked only at those drawing GI bill benefits *during a given month* would produce a lower proportion of student reservists.

<sup>6</sup> This methodology looks at only those members of the Selected Reserve drawing active or reserve GI Bill benefits during a given month – specifically, January of 2000. According to the Defense Manpower Data Center, that number was 60,114. With a total Selected Reserve membership of 873,207 people, this indicates that 6.9% of Selected Reservists were drawing GI Bill educational benefits during that month. The number of reservists using state military educational benefits or self-financing their education is unknown, but an estimate of 3-8% does not appear to be unreasonable.

<sup>7</sup> However, it should be pointed out that this survey was not administered to a random sample of reservists, so its findings cannot be considered representative of the Reserve Components generally.

<sup>8</sup> In other words, volunteers replace those who would have a difficult time deploying. These volunteers may be disproportionately non-students.

<sup>9</sup> For example, aviation and civil affairs units.

OEF/ONE mobilization in relation to their overall representation in the Selected Reserve. Nonetheless, if one assumes that just 10% of those mobilized for OEF/ONE were students just prior to their activation, then there are about 9,300 reservists whose academic status could have been affected by the mobilization.<sup>10</sup>

## **Reported Problems of Student Reservists**

Mobilized student reservists have reported a number of problems associated with their academic status. Perhaps the most commonly reported problem relates to the treatment of classes they are taking at the time of mobilization. For example, some students have complained of difficulty withdrawing from courses without penalty, stating that faculty or administrators told them their grades would suffer if they did not complete their courses, or that they would be allowed to withdraw, but would forfeit the tuition they had paid for the courses. Other students have objected to a lack of guarantees regarding readmission to school, reinstitution of scholarships, or renewal of on-campus housing privileges when they return to school after their tour of duty. Loss of student health benefits while mobilized and concerns about prompt reinstitution of this benefit after demobilization have also been reported.<sup>11</sup>

There are no solid data on the frequency of such problems, but there is some evidence that mobilization related difficulties are fairly uncommon. Steve Kime, the director of the Servicemembers' Opportunity College (SOC), which has voluntarily agreed to respond to such complaints on behalf of mobilized reservists, stated that during the reserve mobilizations for the Gulf War, Bosnia, and Kosovo, his office received only a handful of complaints – about two dozen total – from affected reservists. This low rate of complaints through official channels seem to indicate that problems related to the academic status of mobilized student reservists are not widespread. Alternatively, however, it may simply indicate that student reservists are not well informed about avenues of assistance for problems they encounter. Lacking such information, they may attempt to deal with the problems on their own and accept any negative outcomes as part of the “price” of mobilization.<sup>12</sup> Reports from officials in states which have laws protecting the academic status of reservists also indicate a very small number of complaints.<sup>13</sup>

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<sup>10</sup> This figure is based solely on the number of reservists who had been involuntarily activated for federal service in support of OEF/ONE as of September 17, 2002. For a summary of these distinctions, see CRS Report RL30802, *Reserve Component Personnel Issues*, by Lawrence Kapp.

<sup>11</sup> Reservists mobilized for contingency operations such as OEF/ONE are immediately eligible for military health benefits nearly identical to those offered to active duty personnel. However, many reservists prefer to maintain their private health insurance while deployed, especially if they have dependents who are accustomed to using a certain health plan.

<sup>12</sup> The author is aware of several cases such as this which occurred in connection with activations for the Bosnia mission.

<sup>13</sup> Based on interviews conducted by Tiffany Petros with state officials in Louisiana, New Jersey, and West Virginia. It may be, however, that the low number of complaints in these states is due to the laws they have protecting student reservists.

## **What Type of Assistance is Available to Student Reservists Who Experience Problems With Their Academic Status Due to Their Reserve Duties?**

At the federal level, the principal avenue reservists have for assistance with academic problems related to mobilization is provided through the Servicemembers' Opportunity Colleges (SOC),<sup>14</sup> a DOD funded educational consortium. Reservists can contact SOC and request assistance in dealing with their academic institution.<sup>15</sup> SOC director Kime states that his office has substantial leverage within the higher education community due to the military's ongoing relationship with many colleges and universities. This, he argues, allows SOC to contact school administrators directly and to effectively mediate academic problems related to mobilization. Mr. Kime states that SOC has been able to resolve all mobilization related cases brought to its attention since the organization assumed this role during the Persian Gulf War.<sup>16</sup> Additionally, SOC played a key role in getting major higher education associations like the American Council on Education and the American Association of State Colleges and Universities, to encourage their members to adopt policies to protect the academic status of mobilized students.

At the state level, reservists may also have legal recourse depending on the laws of the state in which they are attending school. States which have laws protecting the academic status of reservists include Arkansas, Louisiana, New Jersey, Texas, and West Virginia. (The scope of these laws varies considerably; see Appendix A for a listing of these statutes). Other states may have laws or regulations which protect the academic status of reservists as well.

## **What Are the Benefits and Drawbacks of the Current System?**

The major benefit of the current system is that it appears to be working: in those cases where SOC is made aware of problems, it claims to have resolved them in a manner favorable to the reservist. This system also has the benefit of being relatively inexpensive: SOC has a small staff, and student mobilization issues take up only a small part of its time. The current system also avoids the adversarial relationship which could develop between the military and academic institutions if student reservists were given specified legal rights which the federal government could enforce against colleges and universities.

The drawbacks of the current system are, first of all, that it has not been well publicized. Student reservists experiencing academic problems due to mobilization may be unaware of – and thus

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<sup>14</sup> "SOC was created in 1972 to provide educational opportunities to servicemembers, who, because they frequently moved from place to place, had trouble completing college degrees. Today SOC is a consortium of more than 1550 colleges and universities that provide educational opportunities for servicemembers and their families. SOC is cosponsored by the American Association of State Colleges and Universities (AASCU) and the American Association of Community Colleges (AACC), in cooperation with 13 other educational associations, the Military Services, the National Guard, and the Coast Guard. SOC is funded by the Department of Defense (DOD) through a contract with AASCU. The contract is managed for DOD by the Defense Activity for Non-Traditional Education Support (DANTES)." For online information, see the Servicemembers' Opportunity Colleges web site, <http://www.soc.aascu.org/socgen/WhatIs.html>, July 3, 2002.

<sup>15</sup> Affected reservists can contact SOC by calling 1-800-368-5622, via email at [socamail@aascu.org](mailto:socamail@aascu.org) or by writing to Servicemembers Opportunity Colleges, 1307 New York Avenue, NW, Fifth Floor, Washington, D.C. 20005-4701.

<sup>16</sup> Author's conversation with Mr. Steve Kime.



unable to take advantage of – the mediating services provided by SOC. Additionally, the existence of laws protecting student reservists in some states, but not others, creates a situation where some student reservists have more rights than others. This disparity could generate feelings of inequity during a mobilization and dissatisfaction with the lack of federal legal protections. Also, the lack of uniform rules defining the rights and responsibilities for student reservists vis-a-vis academic institutions might have a negative impact on the attitudes of students towards reserve service, as it complicates the individual reservist's ability to plan for the future. Even if academic institutions generally accommodate student reservists in practice, the possibility that they *might* not may cause students to attach an unjustifiably high “cost” to reserve service and therefore discourage participation.

Perhaps most fundamentally, however, the current system can be criticized for being wholly contingent upon the cooperation of academic institutions. Should a school refuse to cooperate with SOC – especially one that is not part of the SOC consortium – there is no legal recourse for the affected reservist. This point is perhaps less relevant at present, when the current operations against terrorism enjoy widespread support among the American public and within academia. However, if this conflict, or a future conflict, were to become unpopular within the academic community (as was the case in Vietnam), the current level of cooperation might decrease markedly.

## **What Are Some Alternatives For Dealing With This Issue?**

Congress has a number of options for dealing with the impact of mobilization on student reservists. The choice among these alternatives will likely hinge on Congress's assessment of (a) the prevalence of mobilization related problems among student reservists, (b) the impact such problems could have on the recruiting and retention of reservists who are in college or have plans to attend college, and (c) the effectiveness of the current system in resolving such problems.

### **Do Nothing**

One option for Congress is simply to take no action, thereby maintaining the status quo. This response would be most appropriate if Congress believed that there were a relatively small number of mobilization related problems for student reservists, that these problems had little impact on reserve recruiting and retention, and/or that the current system was doing an acceptable job handling the problems that do occur.

### **Require the Department of Defense to Study the Issue**

Another option Congress might consider is directing the Department of Defense to conduct a study on how mobilization impacts student reservists and the implications of this for reserve recruiting and retention. Based on the findings of the study, DOD could then make recommendations to Congress on the most appropriate policy response. Such a study would have the additional benefit of strengthening the factual basis for any policy decision Congress decides to make. As mentioned earlier, there is a lack of solid data on key issues concerning student reservists – for example, how many student reservists there are, how frequently they are mobilized, what proportion experience academic problems as a result of mobilization, which problems are most frequently experienced, and whether or not such problems affected their views



about reserve service. A thorough study could therefore provide a more substantive underpinning for debating policy alternatives than currently exists.

## **Increase Awareness of the Current System Run by SOC**

This option might be useful if the Congress believes that the current system run by SOC is generally effective in assisting student reservists, but that student reservists need to be better informed about the services it provides. For example, Congress could direct DOD to ensure that all reservists are aware of SOC's mediating services through the various communications channels at DOD's disposal, or it could direct DOD to hire an outside public relations firm for this purpose. Additionally, Congress could require that the military services brief reservists about SOC's mediating services on a regular basis or upon mobilization. Increased publicity, however, would likely increase the demand for SOC's services, and SOC might have difficulty handling an increase in requests for mediation at its current staffing levels.

## **Transfer Responsibility for Student Reservists from SOC to ESGR**

Congress could direct DOD to transfer responsibility for student reservists from SOC to the National Committee for Employer Support of the Guard and Reserve (ESGR). ESGR is a DOD chartered organization which "was established in 1972 to promote cooperation and understanding between Reserve component members and their civilian employers and to assist in the resolution of conflicts arising from an employee's military commitment."<sup>17</sup> It has 30 years of experience in helping resolve conflicts which arise between employers and reservists due to military duty, and it has developed a large network of volunteers in each state and territory to support this mission. Transferring responsibility for academic related issues to ESGR would provide student reservists with a larger, more experienced, and better known organization for addressing their mobilization related problems. However, it should be pointed out that ESGR does not have the same type of relationship with the academic community that SOC has, and this could make it more difficult for ESGR to effectively mediate complaints from student reservists.<sup>18</sup> This option would probably be most appropriate if Congress felt that the current system run by SOC was acceptable in principal, but that it needed to be managed by a larger, more visible organization.

## **Enact Federal Legal Protections for Student Reservists**

Another option for Congress is to pass legislation, roughly analogous to USERRA, which defines the respective rights and duties of student reservists and academic institutions. For example, among other things, such a law might require academic institutions to readmit student reservists after they have been demobilized, but also require that the student apply for readmission within a specified period of time. This type of law could eliminate many of the negative impacts which mobilization can have on student reservists and thereby reduce potential dissatisfaction with

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<sup>17</sup> "What is the National Committee for Employer Support of the Guard and Reserve?" Factsheet, available at <http://www.esgr.org/>.

<sup>18</sup> For more information on this option, see the GAO Report entitled "Reserve Forces: DOD Actions Needed To Better Manage Relations Between Reservists And Their Employers," June, 2002, pp. 16-17 and 24-27. In this report, GAO made a formal recommendation to DOD that "the Secretary of Defense, in conjunction with the Assistant Secretary of Defense for Reserve Affairs, add students as a target population to the mission and responsibilities of ESGR, study in depth the problems related to deployments that student Reservists have experienced, and determine what actions the ESGR might take to help students and their educational institutions." The DOD response was as follows: "Concur. During strategic planning ESGR identified students and educational institutions as a target customer group. However, without additional resources ESGR can only provide limited information and mediation for Guard and Reserve students."

reserve service among students. Additionally, by clearly defining rights and duties for student reservists and academic institutions, such a law could also help to minimize misunderstandings between the respective parties. On the other hand, depending on how the law was written, it could prove burdensome to academic institutions, especially in the case of small schools with large number of student reservists. It might also create an adversarial relationship between members of the academic institution and reservists which could hinder resolving situations not specifically addressed in the law. This option would probably be most appropriate if Congress determined that the academic problems encountered by student reservists were fairly common, were causing significant recruiting and retention problems, or were not being resolved effectively by the current system. Such legislation could be modeled on currently existing state laws (see Appendix A).

## **Allow Students to Defer Mobilization While in School**

Yet another option would be to place the burden of protecting the academic careers of student reservists on the military, rather than on academic institutions. Under such a policy, reservists who are enrolled in courses could be exempted from mobilization until the end of the semester, or the end of the academic year. However, such a policy would likely cause serious readiness and morale problems in reserve units. For example, would a reserve unit be capable of performing its assigned mission upon mobilization if 10% of its members claimed exemption under such an academic deferment policy? How would the unit function if the exempted personnel included key leaders, such as the commanding officer? During a mobilization, would reservists who could not claim academic deferment feel they were being treated unfairly? A further problem with such a policy is that it would create a “moral hazard”: the ability to temporarily avoid service might tempt some reservists to enroll in school if a mobilization appeared imminent. Such actions, even if undertaken by only a few reservists, could also cause morale and readiness problems.

## **Appendix A: State Laws Protecting Student Reservists**

### **Arkansas**

#### **6-62-112: Students called into military service**

(a) When any person is activated for full-time military service during a time of national crisis and therefore is required to cease attending a state-supported postsecondary educational institution without completing and receiving a grade in one (1) or more courses, the following assistance shall be required with regard to courses not completed:

(1) Such student shall receive a complete refund of tuition and such general fees as are assessed against all students at the institution.

(A) Proportionate refunds of room, board, and other fees which were paid to the institution shall be provided to the student, based on the date of withdrawal.

(B) If an institution contracts for services covered by fees which have been paid by and refunded to the student, the contractor shall provide a like refund to the institution.

(2) If the institution has a policy of repurchasing textbooks, students shall be offered the maximum price, based on condition, for the textbooks associated with such courses.

b) When a student is required to cease attendance because of such military activation without completing and receiving a grade in one (1) or more courses, the institution shall provide a reasonable opportunity for completion of the courses after deactivation.

(c) A student activated during the course of a semester shall be entitled, within a period of two (2) years following deactivation, to free tuition for one (1) semester at the institution where attendance had been interrupted unless federal aid is made available for the same purpose.

## **Louisiana**

### **Revised Statutes 29: 38.2. Prohibition against academic penalties against student members of the uniformed services of the United States**

1. A.(1) No student member of the uniformed services of the United States shall have his postsecondary education, including but not limited to colleges and universities, unnecessarily disrupted because of his military service, in accordance with the Board of Regents' "Policy on Reservist and National Guard Mobilization/Activation for Louisiana Public Postsecondary Education Institutions", (Section II, 8.2). No student member of the uniformed services of the United States shall have his postsecondary education, including but not limited to postsecondary proprietary schools, vocational, technical, or trade schools, or nonpublic colleges and universities licensed to do business within the state of Louisiana as provided by law, unnecessarily disrupted because of his service in the uniformed services.

(2)(a) Policies shall be developed jointly by the Board of Regents and the management boards of public postsecondary education to address academic matters of members of the uniformed services resulting from mobilization or activation to ensure that the pursuit of education is disrupted to the minimum extent possible and that no undue penalties are assessed due to a military call to service. The policies shall address the awarding of academic credits, grades, time frames for resumption of academic work, academic status upon reenrollment, scholarships, student grants and loans, student fees, assessments and tuition, and related matters relative to the disruption of academic pursuits due to the mobilization or activation of student members of the uniformed services of the United States.

(b) Proprietary schools and nonpublic colleges and universities licensed to do business in the state of Louisiana by the Board of Regents shall also adopt policies consistent to the maximum extent possible with the policies set forth in Subsection A of this Section.

B. The enforcement of this Section shall be reserved for the proper authority and the appropriate jurisdiction of the Board of Regents and the management boards of public postsecondary education or the successor of such boards, and the boards of trustees of the private colleges and universities in this state which award a baccalaureate or higher degree and which maintain and operate educational programs for which credits are given.

C. As used in this Section, "uniformed services of the United States" shall have the same meaning as defined in R.S. 29:403(11).

Added by Acts 1988, No. 187, § 1, eff. July 1, 1988; Acts 1991, No. 113, § 1, eff. June 30, 1991; Acts 2001, 2<sup>nd</sup> Ex. Sess., No. 9, § 1, eff. Oct. 16, 2001.

## **Revised Statutes 29:420. Academic Penalties Prohibited**

A.(1) No student member of any uniformed service of the United States shall have his postsecondary education, including but not limited to colleges and universities, unnecessarily disrupted because of his service in the uniformed services, in accordance with the Board of Regents' "Policy on Reservist and National Guard Mobilization/Activation for Louisiana Public Postsecondary Education Institutions", (Section II, 8.2). No student member of the uniformed services of the United States shall have his postsecondary education, including but not limited to postsecondary proprietary schools, vocational or technical or trade schools, or nonpublic colleges and universities licensed to do business within the state of Louisiana as provided by law, unnecessarily disrupted because of his service in the uniformed services.

(2)(a) Policies shall be developed jointly by the Board of Regents and the management boards of public postsecondary education to address academic matters of members of the uniformed services resulting from mobilization or activation to ensure that the pursuit of education is disrupted to the minimum extent possible and that no undue penalties are assessed due to a military call to service. The policies shall address the awarding of academic credits, grades, time frames for resumption of academic work, academic status upon reenrollment, scholarships, student grants and loans, student fees, assessments and tuition, and related matters relative to the disruption of academic pursuits due to the mobilization or activation of student members of the uniformed services.

(b) Proprietary schools and nonpublic colleges and universities licensed to do business in the state of Louisiana by the Board of Regents shall also adopt policies consistent to the maximum extent possible with the policies set forth in Subsection A of this Section.

B. The enforcement of this Section shall be reserved for the proper authority and the appropriate jurisdiction of the Board of Regents and the management boards of public postsecondary education or the successor of such boards, and the boards of trustees of the private colleges and universities in this state which award a baccalaureate or higher degree and which maintain and operate educational programs for which credits are given.

C. As used in this Section, "uniformed services of the United States" shall have the same meaning as defined in R.S. 29:403(11).

Acts 1991, 1<sup>st</sup> E.S., No. 6, § 1, eff. April 17, 1991; Acts 1995, No. 716, § 1, eff. June 21, 1995; Acts 2001, 2<sup>nd</sup> Ex. Sess., No. 9, § 1, eff. Oct. 16, 2001.

## **New Jersey**

### **18A:624.2. Options for student at public institution of higher education unable to complete course due to military service**

1. a. A student at a New Jersey public institution of higher education who is unable to complete a course because the student is called to partial or full mobilization for State or federal active duty as a member of the National Guard or a Reserve component of the Armed Forces of the United States shall be entitled to the options set forth in this section with respect to the student's grade for the course.

b. A student who has completed at least eight weeks of attendance in a course may choose to:

- (1) receive a letter grade; or
- (2) receive a grade of pass or fail; or
- (3) receive a grade of incomplete; or
- (4) withdraw from the course.

c. A student who has completed less than eight weeks of attendance in a course may choose to:

- (1) receive a grade of incomplete; or
- (2) withdraw from the course.

d. A letter grade or a grade of pass shall only be awarded if, in the opinion of the faculty member teaching the course, the student has completed sufficient work, and there is sufficient evidence of progress toward meeting the requirements of the course, to justify the grade.

e. A grade of incomplete shall remain valid for a period of one year after the student returns to the New Jersey public institution of higher education.

f. A student who chooses to accept a grade of pass or fail may, within one year after returning to the New Jersey public institution of higher education, receive a letter grade for the course by completing the work required for the course, in which case the letter grade shall replace the pass or fail grade as the student's grade for the course.

g. A student who chooses to withdraw from a course shall receive a full refund of tuition and fees attributable to that course.

h. A student who has paid amounts for room, board or fees shall, except as provided in subsection g. of this section, receive a refund of that portion of those amounts attributable to the time period during which the student did not use the services for which payment was made.

i. Any refund payable to a student who is a financial aid recipient shall be subject to the applicable State and federal regulations regarding refunds.

L.1997,c.377,s.1.

## **Texas**

### **§ 54.006. Refund of tuition and fees**

(f) Beginning with the summer semester of 1990, if a student withdraws from an institution of higher education because the student is called to active military service, the institution, at the student's option, shall:

- (1) refund the tuition and fees paid by the student for the semester in which the student withdraws;

(2) grant a student, who is eligible under the institution's guidelines, an incomplete grade in all courses by designating "withdrawn-military" on the student's transcript; or

(3) as determined by the instructor, assign an appropriate final grade or credit to a student who has satisfactorily completed a substantial amount of coursework and who has demonstrated sufficient mastery of the course material.

## **West Virginia**

### **§15-1F-1a. Educational leave of absence for active duty**

Whenever any member of the national guard or other reserve component of the armed forces of the United States is called or ordered to active duty, other than active duty for training, including, in the case of members of the national guard, active state duty, the educational institution in which the member is enrolled shall grant the member a military leave of absence from their education. Persons on military leave of absence from their educational institution shall be entitled, upon release from military duty, to be restored to the educational status they had attained prior to their being ordered to military duty without loss of academic credits earned, scholarships or grants awarded or tuition and other fees paid prior to the commencement of the military duty. It shall be the duty of the educational institution to refund tuition or fees paid or to credit the tuition and fees to the next semester or term after the termination of the educational military leave of absence at the option of the student. The provisions of this section shall not supercede federal laws, rules and regulations at the time of the military leave of absence.

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